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BEIJING PASS CHENGDU

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E.O. 12356: DECL: OADR
TAGS: PREL, ODP, CR, US
SUBJECT: PRC SEARCH OF EMBASSY VEHICLES AND FIRING ON
APARTMENTS

REFS: (A) BEIJING 16444; (B) BEIJING 16832

1. DEPARTMENT OF COURSE SHARES EMBASSY'S SERIOUS CONCERNS OVER PRC SEARCH OF EMBASSY VEHICLES INCLUDING POINTING OF ARMS AT OCCUPANTS IN RECENT WEEKS AND FIRING ON DIPLOMATIC COMPOUND. WE BELIEVE EMBASSY SHOULD PRESS PRC OFFICIALS HARD ON THESE MATTERS, AS THE INVIOABILITY OF EMBASSY VEHICLES AND THE DUTY TO PROTECT DIPLOMATIC RESIDENCES ARE FUNDAMENTAL, WELL ACCEPTED PRINCIPLES OF INTERNATIONAL LAW AND DIPLOMATIC RELATIONS. THE CHINESE SHOULD BE MADE AWARE THAT, GIVEN THE PRESENT ATTITUDES AND CIRCUMSTANCES, THERE IS A GRAVE RISK THAT THE FURTHER VIOLATION AND EROSION OF THESE PROTECTIONS COULD LEAD TO SERIOUS INJURY OR OTHER FLAGRANT ACTION OF SUCH CHARACTER AS TO RESULT IN SERIOUS DAMAGE TO OUR RELATIONS.

2. IN FUTURE ORAL DEMARCHES OR DIPNOTES, EMBASSY SHOULD MAKE THE FOLLOWING POINTS:
-- INVIOABILITY IS ONE OF THE FUNDAMENTAL PRINCIPLES OF DIPLOMATIC INTERCOURSE. IT IS NOT A QUESTION OF PROTOCOL OR PRIVILEGE, BUT A RIGHT TO WHICH ALL DIPLOMATIC MISSIONS ARE ENTITLED. THIS PRINCIPLE IS FUNDAMENTAL TO THE ABILITY TO CONDUCT DIPLOMATIC RELATIONS.

-- THE INVIOABILITY OF OFFICIAL EMBASSY VEHICLES IS CODIFIED IN ARTICLE 22 OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS; THE INVIOABILITY OF VEHICLES OF DIPLOMATIC AGENTS IS CODIFIED IN ARTICLE 30 OF THE CONVENTION, AND EXTENDED TO VEHICLES OF ADMINISTRATIVE AND TECHNICAL STAFF IN ARTICLE 37 (2). CHINA AND THE U.S. ARE BOTH PARTIES TO THE CONVENTION.

-- INVIOABILITY IS NOT DEFINED IN DEGREES. OUR VEHICLES ARE AS IMMUNE FROM UNAUTHORIZED SEARCH AS ARE THE MISSION AND THE RESIDENCES.

-- ARTICLE 29 OF THE VIENNA CONVENTION PROVIDES THAT THE HOST STATE TREAT DIPLOMATIC AGENTS WITH RESPECT AND PREVENT ATTACKS ON HIS PERSON, FREEDOM, OR DIGNITY.

-- ARTICLE 30 OF THE VIENNA CONVENTION REQUIRES THE HOST STATE TO PROTECT THE PRIVATE RESIDENCES OF DIPLOMATS TO THE SAME EXTENT AS IT PROTECTS THE DIPLOMATIC MISSION, THAT IS, AGAINST ANY INTRUSION OR DAMAGE.

-- CHINESE ACTIONS IN RECENT WEEKS CONSTITUTE A SERIOUS VIOLATION OF THESE INTERNATIONAL OBLIGATIONS.

EMBASSY MAY ALSO WISH TO POINT OUT THE LENGTHS TO WHICH THE U.S. HAS COME TO PROTECT THE PREMISES OF CHINESE DIPLOMATIC AND CONSULAR BUILDINGS IN THE UNITED STATES.

3. EMBASSY'S ASSISTANCE IS APPRECIATED. BAKER

FILE

United States Department of State
Office of FOI, Privacy, & Classification Review
Review Authority: MILLER, ROBERT
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